

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 1ST OCTOBER 2007 / 9TH ASWINA 1929

CRP.No. 569 of 2007()

**AGAINST THE ORDER DATED 07/06/2006 IN IA.811/06 IN
CMA.40/2006 of D.C. & SESSIONS COURT,KOLLAM AND
I.A.4142/05 AND 4151/05 IN
OS.829/2004 of PRL.M.C., KOLLAM**
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**REVN. PETITIONERS: PETITIONERS
LEGAL HEIRS OF APPELLANT-PETITIONER/DEFENDANT**

**1. LEEGI DANIEL, W/O DANIEL,
KOCHU VEEDU, MULAVANA, KUNDARA,
KOLLAM.**

**2. SHIJU.D., S/O DANIEL,
-DO- -DO-**

**3. SHINU DANIEL, S/O DANIEL,
-DO- -DO-**

**BY ADV. SRI.S.SANTHOSH KUMAR
SMT.BABY JOSE**

RESPONDENTS: RESPONDENTS/PLAINTIFFS

**1. VARGHESE, S/O MATHAI,
KOCHUVEEDU, MULAVANA, KUNDARA, KOLLAM.**

**2. PHILIPPOSE, S/O MATHAI,
-DO- -DO-**

R1 AND R2 BY ADV. SRI.K.SUBASH CHANDRA BOSE

**THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 01/10/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

M.N. KRISHNAN, J.
= = = = =
C.R.P. NO. 569 OF 2007
= = = = =
Dated this the 1st day of October, 2007.

O R D E R

Though strictly the C.R.P. is not maintainable, in the interest of justice I consider it under Article 227 of the Constitution of India and dispose of the matter. The petitioners are legal representatives of the deceased Daniel who was the defendant in the suit. The suit was decreed exparte. I.A. 4142/05 is filed to condone the delay of 210 days in filing the application for setting aside the exparte decree and I.A.4151 of 2001 is filed for setting aside the exparte decree. Both the applications were dismissed. Against that a CMA was preferred. It is seen from the order of the appellate Court that the counsel for appellant has endorsed the appeal is being withdrawn. In the light of the order in I.A.811/06, the CMA was also dismissed. So, CMA filed by the defendant who was alive then, had been withdrawn and therefore the legal representatives cannot

have a better claim than the original appellant before this Court. If at all there is any mistake committed by the Court, party can approach that Court for review of the order and not to file an application of this nature. Therefore, the CRP is dismissed.

M.N. KRISHNAN, JUDGE.

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